

In The United States District

Court for the \_\_\_\_\_ Circuit

Gordon Maston

Plaintiff

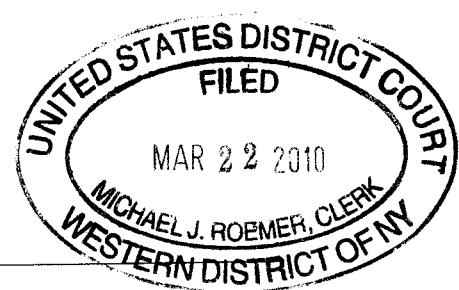
10 CV 1245 M

Complaint

Civil Action # \_\_\_\_\_

-v-

Erie County Correctional facility  
Donald Livingston (Superintendent)  
Steve Swain (Physicians Assistant)  
Defendant(s) Lori Lay (nurse)



### I. Complaint

Plaintiff, Gordon Maston, Pro Se, for the complaint herein, states as follows:

### II. Parties

1. Plaintiff Gordon Maston was confined in the Erie County Correctional facility from the 26<sup>th</sup> day of October, \_\_\_\_\_ to the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_. Currently still incarcerated.
2. Plaintiff is currently confined at: Erie County Correctional Facility, 11581 Walden Avenue, in the Town of Alden, in the County of Erie in the State of New York
3. Plaintiff Gordon Maston was and is at all times mentioned herein, an adult citizen of the United States and a resident of the State of New York.

4. Additional persons having the same complaint include the following: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. Defendant Donald Livingston was at all relevant times herein the Mayor/Supervisor of the City/Town/Village of Alden, New York.

6. Defendant Donald Livingston was at all relevant times herein the Erie County Correctional facility for the City/Town/Village of \_\_\_\_\_, New York, with responsibility for operating and maintaining Detention, Penal, and Correctional Facilities within the City/Town/Village of Alden, New York, including the City/Town/Village Jail.

7. Defendant Donald Livingston was at all times relevant herein the Warden or Superintendent of the Municipal Jail for the City/Town/Village of Alden, New York, and was responsible for managing the day-to-day operations and the execution of the policies of said Municipal Jail.

8. Defendant Donald Livingston was at all relevant times herein an employee of Erie County Correctional facility.

9. Defendant Donald Livingston was at all relevant times herein employed as a(n) Superintendent of Erie County Correctional facility Alden New York.

10. Defendant Donald Livingston was at all relevant times herein employed as a(n) Superintendent of ECCF at 11581 Walden Ave.

11. Defendant City/Town/Village Alden, New York is and was at all times relevant herein a Municipal Corporation in the State of New York.

### **III. Jurisdiction and Venue**

1. This action arises under and is brought pursuant to 42 United States Code Section 1983 to remedy the deprivation, under color of State law, of rights guaranteed by the Eighth and Fourteenth Amendments to the Constitution of The United States.
2. This Court has jurisdiction over this action pursuant to 28 U.S.C. Section 1331.
3. Plaintiff's claims for injunctive relief are authorized by 28 U.S.C. Sections 2283 and 2284 and Rule 65 of the Federal Rules of Civil Procedure.
4. This cause or action arose in the \_\_\_\_\_ District of \_\_\_\_\_; therefore, venue is proper under 28 U.S.C. Section 1391 (b).

### **IV. Previous Actions by Plaintiff**

(Strike out inapplicable sections)

1. Plaintiff has filed no other lawsuits dealing with the same facts involved in this action or otherwise relating to his/her imprisonment.

**OR**

2. Plaintiff has filed other lawsuits dealing with the same facts involved in this action or otherwise relating to his/her imprisonment. The following took place:

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3. Plaintiff used the Prisoner Grievance Procedure in this institution to try to solve the problem. On the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, Plaintiff presented the facts relating to this complaint in the Prisoner Grievance Procedure.

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**OR**

4. Plaintiff used the Prisoner Grievance Procedure in this institution to try to solve the problem. On the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, Plaintiff did not get an opportunity to present the facts related to the complaint in the Prisoner Grievance Procedure because \_\_\_\_\_

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**OR**

5. Plaintiff did not use the Prisoner Grievance Procedure because:

Although a Grievance was requested on several occasions  
Prison officials Continuously denied all request to receive  
a Grievance. Stating. They would handle the situation  
Themselves

**OR**

6. There is no Prisoner Grievance Procedure in this institution, but Plaintiff registered the complaint to prison authorities on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
Prison officials responded to the Plaintiff's complaint by: \_\_\_\_\_

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**V. Statement of Claim**

Plaintiffs reallege and incorporate by reference paragraphs \_\_\_\_\_ herein.

At all relevant times herein, Defendants were 'persons' for purposes of 42 U.S.C. Section 1983 and acted under color of law to deprive Plaintiff of his/her Constitutional rights, as set forth more fully below.

The facts in chronological order are as follows: Plaintiff Claims that for several months he was denied proper medical attention for a infection to left foot which Subsequently led to plaintiff having to have Surgical procedures performed to remove the excessive infectious poison in left foot. A Situation where extreme pain and suffering transpired on a daily basis.

See Attached affidavit

### VI. Prayer for Relief

1. Plaintiff requests an Order declaring that the Defendants have acted in violation of the Constitution of the United States.
2. Plaintiff requests an injunction compelling Defendant(s) to provide Proper medical attention to others like myself, or stop Working in Medical Profession
3. Plaintiff requests \$ 8.8 million as compensatory damages.

Dated: 3/16/2010

Gordon Mastor

Signature, Plaintiff

State of New York

County of Erie

On this 16 day of MARCH, 2010, before me personally appeared Gordon Mastor, principal, who is known to me personally, or who provided Prisoner's Picture ID as positive identification, and signed the foregoing instrument in my presence.

Derek L. Alexander

Signature, Notary Public

DEREK L. ALEXANDER  
NOTARY PUBLIC, STATE OF NEW YORK  
QUALIFIED IN ERIE COUNTY  
MY COMMISSION EXPIRES OCT. 2, 2010